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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/583,445	05/30/2000	E. Barton Manchester	062891.0390	1676

7590 05/05/2004  
Baker Botts LLP  
2001 Ross Avenue  
Dallas, TX 75201-2980

EXAMINER

PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 05/05/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/583,445

Applicant(s)

MANCHESTER, E. BARTON

Examiner

Tammara R Peyton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8-13, 17-21 and 26-28 rejected under 35 U.S.C. 103(a) as being unpatentable over *Kidder et al.*, ( US 6,715,097).

As per claim 1, 2, 11, 12, 18, 19, and 26-28, *Kidder* teaches a method for activating a card in a network element comprising one or more switch cards (Figs. 1, 5, or 18), the method comprising:

determining the type of the card;  
retrieving an executable file (MKI.exe) stored remotely (central processor 12/storage, 21, Fig. 18) from the card and switch cards based on the type of the card;;  
downloading the executable file to a memory (EEPROM) for a processor on the card without using boot code on the card; and operating the card using the executable file. (col. 24, lines 50-col. 25, lines 1-6)

*Kidder* teaches a method of determining a type of line card and retrieving an executable file stored on a remote memory (21) from the line's card memory (42) and

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downloading the executable file to the line card. Each line card will execute the download file without using boot code on the card.

As per claim 3, 13, 20, and 21, *Kidder* does not expressly teach holding the processor while downloading the executable file and releasing the processor subsequent to the download. However, it would have been obvious to one of ordinary skill that during the download of the executable file that processor, 12 would be inactive until the downloaded is complete in order to ensure that the download is successful.

As per claims 8-10, and 17, *Kidder* does not expressly teach a dedicated download card, however, *Kidder* teaches the control processor, 12 consisting of a master control driver (MCD) program that learns the physical characteristics of the system and its devices. Specifically, the MCD will recognize when a new line cards is inserted in the system. The MCD uses a diagnostic program of the newly inserted line card to determine the card's type and version number. Next, the MCD checks a table to determine the appropriate executable files that needs to be downloaded to the line card and sends a signal to another program to will initiate the download of the executable file to the line card. Therefore, one of ordinary skill would readily recognize that *Kidder's* processor 12 teaches retrieving and downloading the appropriate executable file based on the inserted line card. Further, as for the line card transmitting a present or reset message to processor, 12, *Kidder* teaches the processor recognizing newly inserted line card, therefore it would have been obvious to one of ordinary skill at the time the

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invention was made that the line card would transmit a signal alerting the processor to its present in the system.

Claims 4-7, 14-16, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kidder et al.*, ( US 6,715,097) and *Berenbaum et al.*, (US 6,272,144)

As per claims 4-7, 14-16, and 22-25, *Kidder* does not expressly teach a line card comprising a field-programmable gate array (FPGA). However, *Berenbaum* teaches a line card comprising a FPGA (*Berenbaum*, 104, Fig. 8) is well known in the art. Therefore, it would have been obvious to one of ordinary skill that it would not be out of the scope of *Kidder's* line card to implement a FPGA as described in *Berenbaum*, because doing so would control the transmission protocol of the line card. (*Berenbaum*, col. 7, lines 25-39)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (703) 306-5508. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (703) 308-3301. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 305-3718. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

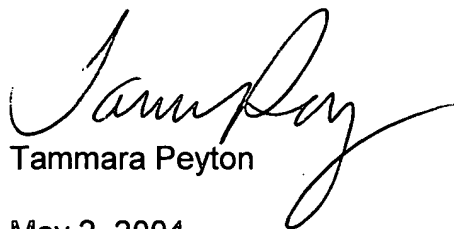
Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(703) 872-9306

Hand-delivered responses should be brought to:

USTPO, 2011 South Clark Place, Customer Window  
Crystal Plaza Two, Lobby Room 1B03, Arlington, VA, 22202Crystal Park II, 2121.



Tammara Peyton

May 2, 2004